



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS  
UNITED STATES PATENT AND TRADEMARK OFFICE  
P.O. Box 1450  
ALEXANDRIA, VA 22313-1450  
www.uspto.gov

IBM Corporation  
Intellectual Property Law Dept.  
9CCA/B002  
P.O. Box 12195  
Tri. Park, NC 27709

**COPY MAILED**

**MAY 17 2004**

In re Application of : **OFFICE OF PETITIONS**  
Chu, et al. :  
Filed: October 31, 2003 : ON PETITION  
Application No. 10/698,208 :  
Atty. Dkt. No.: RPS920030114US2 :

This decision is in response to the "Petition and Fee Under 37 CFR § 1.53(e)(2) Regarding Notice of Omitted Item", filed April 5, 2004. This response is being treated as a petition for withdrawal of Notice and accordane of a filing date of October 31, 2003.

The application was filed October 31, 2003. The Notice to File Missing Parts of Nonprovisional Application mailed February 3, 2004 by the Office of Initial Patent Examination indicated that the application had been accorded a filing date but that Figure 4 described in the specification appeared to have been omitted from the application as filed.

In response, the present petition was filed wherein petitioner argues that the application as deposited included five sheets of drawings, including Fig. 4. Petitioners have included as proof of mailing and proof of receipt of the figure in question a return postcard date stamped by the Office on October 31, 2003. A copy of Fig. 4 purportedly filed with the application on December 31, 2003 was also supplied.

The original Fig. 4 has not been located. However, in view of the evidence presented, the petition for withdrawal of the Notice and accordane of a filing date of October 31, 2003 is GRANTED.

Since the original drawing sheet containing Fig. 4 cannot be located in the Office, the copy of Fig. 4 supplied with the instant petition will be used for examination purposes.

**BEST AVAILABLE COPY**

No petition fee is due in connection with this matter and no petition fee has been charged to petitioners' deposit account.

This application will be returned to the Office of Initial Patent Examination for further processing with a filing date of December 31, 2003.

Telephone inquiries related to this decision may be directed to the undersigned at (703) 305-0310.



Alesia M. Brown  
Senior Petitions Attorney  
Office of Petitions